SIRHAN 6/16/72

1ST LD 134

LOS ANGELES(CNS)--THE CALIFORNIA SUPREME COURT UPHELD TODAY THE FIRST-DEGREE MURDER CONVICTION OF SIRHAN B. SIRHAN, RULING THAT HE FULLY KNEW WHAT HE WAS DOING WHEN HE FIRED THE SHOTS THAT KILLED SEN. ROBERT F. KENNEDY IN JUNE OF 1968.

IN A UNANIMOUS OPINION, THE SEVEN JUSTICES REJECTED DEFENSE APPEALS THAT THE PALESTINEAN IMMIGRANT HAD DIMINISHED MENTAL CAPACITY, WAS DENIED A FAIR TRIAL AND HAD HIS HOME SUBJECTED TO ILLEGAL SEARCH AND SEIZURE.

THE COURT MODIFIED THE SENTENCE FROM DEATH IN THE GAS CHAMBER TO LIFE IMPRISONMENT. BUT THIS WAS REGARDED AS MERELY A LEGAL TECHNICALITY IN LIGHT OF THE STATE SUPREME COURT'S LANDMARK DECISION EARLIER THIS YEAR ABOLISHING THE DEATH PENALTY IN CALIFORNIA.

IN ITS 75-PAGE OPINION, THE COURT SPOKE OUT STRONGLY IN SUPPORT OF THE RIGHT OF LAW OFFICERS TO CONDUCT A SEARCH WITHOUT A WARRANT IN A CASE OF "ENORMOUS GRAVITY SUCH AS THE ASSASSINATION OF SEN. KENNEDY.

"TODAY WHEN ASSASSINATION OF PERSONS OF PROMINENCE HAVE REPEATEDLY BEEN COMMITTED IN THIS COUNTRY, IT IS ESSENTIAL THAT LAW ENFORCEMENT OFFICERS BE ALLOWED TO TAKE FAST ACTION IN THEIR ENDEAVORS TO COMBAT SUCH CRIMES," SAID THE COURT.

SIRHAN, WHOM 28, WAS CONVICTED BY A JURY IN LOS ANGELES SUPERIOR COURT ON APRIL 17, 1969.

UNDER CALIFORNIA LAW AFFECTING FIRST-DEGREE MURDER CONVICTIONS, AN APPEAL TO THE STATE SUPREME COURT WAS AUTOMATIC.

SIRHAN'S CHIEF DEFENSE ATTORNEY, LUKE MC KISSACK, COULD NOT BE REACHED IMMEDIATELY FOR COMMENT ON THE RULING HANDED DOWN IN LOS ANGELES.

AN APPEAL TO THE U.S. SUPREME COURT IS STILL POSSIBLE.

THE OPINION AFFIRMING THE FIRST-DEGREE MURDER CONVICTION WAS CONCURRED IN BY ALL SEVEN JUSTICES. HOWEVER, JUSTICE MARSHAL MC COMB DISSENTED THE PROVISION MODIFYING THE PENALTY TO LIFE IMPRISONMENT.

JUSTICE MC COMB ALSO WAS THE LONE DISSENTER IN THE ANDERSON CASE FINDING THE DEATH PENALTY TO BE CRUEL OR UNUSUAL PUNISHMENT.

SIRHAN WAS BEEN INCARCERATED SINCE THE TRIAL AT SAN QUENTIN.

HIS APPEAL WAS FILED MANY MONTHS BEFORE THE COURT'S CAPITAL PUNISHMENT DECISION. THEREFORE IT CONTINUED TO CONTAIN A CHALLENGE TO THE DEATH PENALTY VERDICT HANDED DOWN BY THE LOS ANGELES JURY.

LIKE THE ANDERSON CASE, THE "CRUEL OR UNUSUAL PUNISHMENT" ARGUMENT WAS RAISED IN SIRHAN'S APPEAL.

IN MODIFYING THE SENTENCE TO LIFE IMPRISONMENT, THE SUPREME COURT CITED ITS OWN RULING IN THE ANDERSON CASE.

CRUEL UNUSUAL PUNISHMENT CONSTITUTIONAL CLAIMS MERITORIOUS," SAID THE OPINION.

THE COURT ALSO UPHELD SIRHAN'S CONVICTIONS OF CHARGES STEMMING FROM THE WOUNDING OF UNION LEADER PAUL SCHRADE AND FOUR OTHER PERSONS DURING THE GUNFIRE AT THE AMBASSADOR HOTEL ON PRIMARY ELECTION NIGHT IN 1968.

SEN. KENNEDY WAS GUNNED DOWN IN A KITCHEN AREA MOMENTS AFTER A TRIUMPHANT APPEARANCE IN THE EMBASSY ROOM CLAIMING VICTORY IN THE CALIFORNIA DEMOCRATIC PRESIDENTIAL PRIMARY.

THE SHOOTING OCCURRED ABOUT MIDNIGHT. THE SENATOR DIED OF HIS WOUNDS ON JUNE 6.

IN HIS APPEAL, DEFENSE ATTORNEY MCKISSACK CITED A NUMBER OF REASONS AS GROUNDS FOR A REVERSAL.

1 - THAT SIRHAN, A PLESTINE ARAB REFUGEE WHO CAME TO THE UNITED STATES AS A BOY, HAD DIMINISHED MENTAL CAPACITY -- IN OTHER WORDS, THAT HE DIDN'T KNOW WHAT HE WAS DOING.

2 - THAT HE WAS DENIED A FAIR TRIAL IN LOS ANGELES BECAUSE OF EXTENSIVE NEWS COVERAGE OF THE CASE, PRINCIPALLY BECAUSE OF PRE-TRIAL REPORTS THAT AT ONE TIME SIRHAN WAS WILLING TO PLEAD GUILTY IF THE PROSECUTION AGREED NOT TO SEEK THE DEATH PENALTY.

3 - THAT LOS ANGELES POLICE DETECTIVES BREACHED CONSTITUTIONAL PROHIBITIONS AGAINST UNREASONABLE AND ILLEGAL SEARCH AND SEIZURE WHEN THEY SEARCHED SIRHAN'S ROOM IN PASADENA AND FOUND NOTEBOOKS AND OTHER WRITINGS FILLED WITH INCRIMINATING EVIDENCE. THE NOTEBOOKS CONTAINED SCRAWLINGS SUCH AS "RFK MUST BE ASSASSINATED."

THE HIGH COURT REJECTED ALL THREE APPEAL ARGUMENTS, AS WELL AS SEVERAL TECHNICAL ONES DEALING WITH SELECTION OF THE TRIAL COURT JURY AND THE GRAND JURY WHICH INDICTED SIRHAN.

THE COURT CONCLUDED THERE WAS SUFFICENT EVIDENCE THAT SIRHAN DID, INDEED, KNOW WHAT HE WAS DOING. DIMINISHED CAPACITY HAD BEEN THE PRINCIPAL DEFENSE ARGUMENT AT THE LENGTHY TRIAL IN LOS ANGELES.

THE JUSTICES TOOK NOTE OF EVIDENCE THAT SIRHAN HAD ATTENDED A SPEECH BY SEN. KENNEDY TWO DAYS BEFORE THE SHOOTING, HAD GONE TO GUN RANGE TO PRIACTICE RAPID FIRE ON THE AFTERNOON OF JUNE 4 AND HAD A BACKGROUND OF RESENTING AMERICAN POLICY IN SUPPORT OF ISRAEL.

THE COURT FOUND THAT SIRHAN HAD AMPLE TIME TO REFLECT UPON HIS ACTIONS AND THAT AT THE TIME OF THE SHOOTING WAS NOT A "PARANOID SCHIZOPHRENIC, (NOT) IN A DISSOCIATE STATE, OR INTOXICATED."

IN REJECTED THE ARGUMENT OVER NEWS COVERAGE, THE COURT SAID NO PROOF WAS PRESENTED TO INDICATE THAT SUCH PUBLICITY SWAYED THE JURY, NOTING THAT SIRHAN HIMSELF ADMITTED UNDER CROSS-EXAMINATION THAT HE ONCE HAD CONFESSED TO THE CRIME.

THE SUPREME COURT DEVOTED NEARLY 20 PAGES OF THE 75-PAGE OPINION TO ITS DEFENSE ARGUMENT OVER ILLEGAL SEARCH AND SEIZURE, RULING THAT DETECTIVES WERE WITHIN THEIR RIGHTS TO EXAMINE SIRHAN'S ROOM WITHOUT A WARRANT BECAUSE OF THE "ENORMOUS GRAVITY" OF THE CRIME AND THE EMERGENCY NATURE OF THE INVESTIGATION.

THE SEARCH WAS CONDUCTED WITHIN HOURS AFTER THE SHOOTING AT THE AMBASSADOR HOTEL AND, AT THAT TIME, THE JUSTICE SAID, AUTHORITIES HAD NO WAY OF KNOWING WHETHER SIRHAN ACTED ALONE OR MIGHT BE PART OF AN ORGANIZED PLOT DIRECTED AAINST THE LIVES OF OTHER PUBLIC OFFICIALS.

MOST OF THE NOTEBOOKS, ALONG WITH AN EVELOPE ALSO CONTAINING SCRAWLINGS OF DEATH THREATS, WERE FOUND DURING THAT SEARCH.

IN UPHOLDING THE LEGALITY OF THE SEARCH, THE COURT AGREED WITH THE STATE ATTORNEY GENERAL'S OFFICE THAT THE "EXIGENCIES OF THE SITUATION" JUSTIFIED THE POLICE ACTION.

"THE HERETOFORE RECITED EVIDENCE INDICATES THAT THE OFFICERS BELIEVED THAT THERE MIGHT BE A CONSPIRACY AND...THEY UNDOUBTEDLY CONTEMLATED THE OBVIOUS POSSIBILITY OF A CONSPIRACY TO ASSASSINATE POLITICAL LEADERS IN THIS COUNTRY," SAID THE COURT.

"THEIR BELIEFS WERE ENTIRELY REASONABLE. THE CRIME WAS ONE OF ENORMOUS GRAVITY AND THE 'GRAVITY OF THE OFFENSE' IS AN APPROPRIATE FACTOR TO TAKE INTO CONSIDERATION...THE VICTIM WAS A MAJOR PRESIDENTIAL CANDIDATE AND A CRIME OF VIOLENCE HAD ALREADY BEEN COMMITTED AGAINST HIM.

"THE CRIME THUS INVOLVED FAR MORE THAN POSSIBLY IDLE THREATS. ALTHOUGH THE OFFICERS DID NOT HAVE REASONABLE CAUSE TO BELIEVE THAT THE HOUSE CONTAINED EVIDENCE OF A CONSPIRACY TO ASSASSINATE PROMINENT POLITICAL LEADERS, WE BELIEVE THAT THE MERE POSSIBILITY THAT THERE MIGHT BE SUCH EVIDENCE IN THE HOUSE FULLY WARRANTED THE OFFICERS' ACTIONS," SAID THE COURT.

"IT IS NOT DIFFICULT TO ENVISAGE WHAT WOULD HAVE BEEN THE EFFECT ON THIS NATION IS SEVERAL MORE POLITICAL ASSASSINATIONS HAD FOLLOWED THAT OF SEN. KENNEDY. TODAY WHEN ASSASSINATIONS OF PERSONS OF PROMINENCE HAD REPEATEDLY BEEN COMMITTED IN THIS COUNTRY, IT IS ESSENTIAL THAT LAW ENFORCEMENT OFFICERS BE ALLOWED TO TAKE FAST ACTION IN THEIR ENDEAVORS TO COMBAT SUCH CRIMES."

THE COURT MADE ONE ADDITIONAL POINT IN UPHOLDING THE EVIDENCE INTRODUCED FROM THE NOTEBOOKS, IT SAID THAT THE DEFESE ITSELF HAD INTRODUCED SOME OF THE PAGES IN AN EFFORT TO SUPPORTS IT CONTENTION THAT SIRHAN HAD DIMINISHED MENTAL CAPACITY.

(INCLUDES PREVIOUS)

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